IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WA.No. 2179 of 2007

AGAINST THE JUDGEMENT IN WPC.24266/2007 Dated 17/08/2007

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APPELLANT: PETITIONER

VENGAPPALLY SERVICE CO-OP.BANK LTD.
NO.F 1260, P.O.PINANGODE, WYNAD- 673 121,
REP.BY ITS PRESIDENT ABOOBACKER.T.

BY ADV. SRI.P.N.MOHANAN

RESPONDENT: RESPONDENT

JOINT REGISTRAR OF CO-OP.SOCIETIES (G),
KALPATTA, WYNAD DISTRICT.

BY GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A. No.2179 of 2007

Dated this the 5th day of September, 2007.

J U D G M E N T

H.L.Dattu, C.J.

The appellant is a co-operative bank. It is registered under the provisions of the Co--operative Societies Act.

(2). The appellant was the writ petitioner before the learned Single Judge in W.P.(C).No.24266 of 2007. In the said petition it has called in question primarily the interim order passed by the Joint Registrar (General), Wayanad, Kalpetta dated 9th May, 2007. Several contentions were raised in the writ petition questioning the very jurisdiction of the Joint Registrar (General) in entertaining the complaint and granting the interim order.

(3). The learned Single Judge after detailed discussion has rejected the writ petition. That is why the Bank is before us in this appeal.

(4). Ext.P3 is the order passed by the Joint Registrar (General) dated 9th May, 2007. The order made by the Joint Registrar is as under.

> "The Asst.Registrar (General) Vythiri has reported that for appointing 2 Peons in the Vengappally Service Co-op Bank, two paper notifications were made, one in Chandrika Daily dated 23-5-06 and another in Mangalam Daily dated 25-5-06 and that selection process is going on and that in the two dailies two dates are seen published regarding the last date for receipt of applications.

> The Asst. Registrar (General) further reported that as per the paper publication, the age limit is between 18 and 37 as on 1-4-06 but as per the application form supplied by the bank the date as on is shown as 1-1-06.
>
> So as there is difference in the last date for receipt of the Application Form and also regarding the date of age limit. So you are hereby called upon to file a detailed report, stating that whether any steps have been taken in order to rectify the same. Hence the appointment to the posts of peon is hereby stayed until further order is made."

(5). After the receipt of the interim order so passed, the bank has filed Exts.P4 and P5 before the Joint Registrar of Co-operative Societies, Wayanad, inter alia requesting him to modify the order dated 9th May, 2007. Even before the Joint Registrar could react to the applications so filed, the petitioner has rushed to this court by filing the writ petition, inter alia questioning the order passed by the Joint Registrar dated 9th May, 2007.

(6). In our opinion, the learned Single Judge ought to have rejected the writ petition on the sole ground that the petition so filed by the Bank is only premature. On a complaint filed, the Joint Registrar has granted an interim stay until further orders. If for any reason the Bank is aggrieved by that order, necessarily it has to make an application for modification of that order. In fact, that has been done by the appellant Bank. The Joint Registrar has to pass orders one way or the other.

(7). In our opinion, the writ petition as well as the writ appeal filed by the petitioner requires to be rejected solely on the ground that the cause shown in the writ petition is still premature. Therefore, we decline to entertain this writ appeal and pass the following order.

ORDER

(i). The Writ Appeal is rejected.

(ii). Direction is issued to the Joint Registrar (General) Wayanad, Kalpetta to consider Exts.P4 and P5 filed by the Bank for modification/vacating the interim order granted on 9th May, 2007, as expeditiously as possible, at any rate within one month from the date of receipt of this order. While doing so, the Joint Registrar (General) shall not be influenced by any of the observations made by the learned Single Judge while disposing of the writ petition. Liberty is also reserved to the appellant to raise all its contentions which are available to it, including the contentions raised in the writ petition as well as in the writ appeal.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

MS